

603 KAR 5:061. Intrastate toll bridges and toll ferries.

RELATES TO: KRS 280.010-280.130

STATUTORY AUTHORITY: KRS 280.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 280.080 requires the Department of Highways to make such administrative regulations for the control of toll bridges or toll ferries, as defined in KRS 280.010, as the department deems necessary.

Section 1. Application for Certificate of Convenience and Necessity. (1) Any bridge company or ferry company, except any which can prove to the department that it holds a perpetual and irrevocable franchise for such operation, who seeks to operate a toll bridge or toll ferry connected to the state primary road system shall make application at the highway district office of the highway district in which the toll bridge or toll ferry is located for the certificate of convenience and necessity required by KRS 280.020. Application forms are available in all highway district offices and from the Transportation Cabinet, Division of Traffic, Frankfort, Kentucky 40622.

(2) The application form must be completed in its entirety and contain at a minimum, the information required by KRS 280.030.

(3) Upon receipt of the application, the department shall fix a date for hearing the application and shall immediately notify the applicant of the date, time and location of the hearing.

(4) The applicant shall present proof as to the applicant's general ability, experience, organization and equipment. The applicant shall, at the hearing, submit any additional proof that the public convenience and necessity require the applicant's toll bridge or toll ferry operation.

(5) Department representatives may inspect the applicant's equipment prior to the issuance of a certificate of public convenience and necessity.

(6) The department shall issue a decision on any application within thirty (30) days of the hearing.

(7) The applicant may appeal the decision of the department in accordance with KRS 280.110.

Section 2. Annual Report. On forms furnished by the department, every toll bridge and toll ferry company which does not hold a perpetual and irrevocable franchise shall submit an annual report of the previous year's operation on or before March 1 of each year to the chief district engineer of the highway district in which the toll bridge or toll ferry is located. The company president, secretary, treasurer, superintendent or manager shall under oath make and sign a statement on the annual report that the information contained in the annual report is correct. The report shall include the information required in KRS 280.030 and also the following:

(1) The number, by class, of vehicles accommodated during the report year and the toll schedule for each class of vehicle;

(2) For toll ferries, a description of the barges and power units in use during the year;

(3) The schedule of hours of service and trips made; and

(4) Any additional relevant information required by the department.

Section 3. Toll Rates. (1) No change in toll rates charged may be made by a toll bridge or toll ferry company including one which holds a perpetual and irrevocable franchise without the approval of the department.

(2) To request a change in toll rates, the company must apply, in writing, to the department's chief district engineer of the highway district in which the toll bridge or toll ferry is located. The request shall include the reasons for the requested change and the toll bridge or toll ferry company shall make available to the department's chief district engineer all financial reports of the company.

(3) The company shall give notice to the public of the filing of the rate change request by publication of the proposed rate schedule and information for filing a formal protest of the proposed rate

change with the department in accordance with the requirements of KRS Chapter 424.

(4) If a formal protest is filed within two (2) weeks of the final publication of the notice or the department has reservations about the proposed rate increase, the department's chief district engineer shall fix a date between thirty (30) and forty-five (45) days of final publication of the notice for hearing the application for a toll rate change.

(5) The department shall give notice of the hearing by means of publication of a notice in accordance with the requirements of KRS Chapter 424.

(6) The department shall issue a decision on any request for a toll rate change within thirty (30) days of the hearing or within thirty (30) days of final publication of the notice.

(7) The company may appeal the decision of the department in accordance with KRS 280.110.

Section 4. Operation of a Toll Ferry or Toll Bridge. (1) A copy of the irrevocable franchise or the certificate of public convenience and necessity shall be posted on all ferry boats and in the toll booths of all bridges affected by this administrative regulation.

(2) A toll bridge or toll ferry company holding a certificate of public convenience and necessity shall not operate over any bridge or stream other than those specified in the certificate.

(3) Hours of operation, toll rates, services to be performed, and the safety of operation as set forth by the department in the certificate of public convenience and necessity shall be strictly complied with by all certificate holders. The hours of operation shall be posted on the ferry dock or apron and at both ends of a toll bridge.

(4) If a toll bridge or toll ferry company including one holding a perpetual and irrevocable franchise is found, during an inspection, to be in noncompliance with any administrative regulation, statute or order, it shall have ten (10) days, following the inspection to correct the noncompliance. If at the end of the ten (10) days the company is still in noncompliance the department shall fix a hearing date on the noncompliance. The hearing date will be upon ten (10) days written notice to the toll bridge or toll ferry company.

(5) The department's determination shall be issued within thirty (30) days of the hearing.

Section 5. Safety Devices. (1) Safety devices as required by KRS 280.120 and 280.130 shall be provided and properly maintained by each toll ferry company. In addition, the department may require any toll bridge or toll ferry company including any holding a perpetual and irrevocable franchise to place and maintain other traffic control devices such as, but not limited to, signs, signals, lighting, pavement markings, and barricades that may be necessary for the safety of the motoring public. All such devices required shall conform to the specifications set forth in 603 KAR 5:050.

(2) Each toll ferry company shall provide and maintain in reasonable condition the number of life preservers or floats, fire extinguishers, axes, and yawls or life boats as required by the U.S. Coast Guard in their regulations governing the operation of ferries.

Section 6. The administrative regulation of the department as herein outlined is intended to supplement the specific requirements contained in KRS Chapter 280 and regulations of appropriate agencies of the federal government. In all cases where the department's administrative regulations conflict with the regulations of such agencies, or where the regulations of other governing agencies are more stringent than those of the department, the regulations of the other agency shall prevail. (11 Ky.R. 1223; 1369; eff. 3-12-1985; 14 Ky.R. 55; eff. 8-5-1987; Crt eff. 3-11-2019.)